



October 19, 2011

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: Notice of Ex Parte Communication in MM Docket No. 00-168

Dear Ms. Dortch:

On October 17, 2011, Jane E. Mago and the undersigned of the National Association of Broadcasters (NAB), met with Joshua Cinelli of the Office of Commissioner Michael Copps.

During the meeting, we discussed the Commission's plans to consider, at its October meeting, an *Order on Reconsideration* of the 2007 *Enhanced Disclosure Report and Order* and a *Further Notice of Proposed Rulemaking* proposing to replace television broadcast stations' public files with online public files.¹

We expressed some concerns about certain aspects of this proposal, including noting that the political file must be very frequently updated, particularly during the periods close to local, state and federal elections. Developing a system of uploading, organizing, and ensuring timely online access to the political file presents a significant challenge. Such a plan would have to be implemented in a manner that is robust and reliable, efficient for candidates and parties, and yet not unduly burdensome for broadcast licensees. We noted that the Commission appropriately chose to exclude stations' political files when it previously adopted an online public file requirement.²

¹ See *FCC Announces Tentative Agenda for October Meeting*, Press Release (Oct. 6, 2011).

² See *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Report and Order, 15 FCC Rcd 19816 (2008) at ¶¶19-20 ("Resources available to political candidates likely provide them with greater access to the station and distinguish them from members of the general public who will benefit from ready access to Internet posting of other parts of the public file. Political candidates and campaigns make heavy use of the file and require quick access to material, and if the volume of material is too great, the station may not be able to update the Internet file quickly enough.").

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We also understand that the Commission is considering proposals to replace the current issues/programs lists, and that some parties have proposed a reporting system under which television broadcasters would identify and provide information about certain programming with particular content.³ We reiterated our belief that the current issues/programs lists provide significant information about stations' service to their communities, and in a manner that reflects local broadcasters' own views, rather than the circumscribed choices presented by a pre-set form.

NAB representatives further stated that the Commission should be particularly cognizant of the potential burdens on licensees and First Amendment issues that could be raised by any new reporting system based on FCC-specified program categories. We cited the complexity of the legal issues raised by such proposals, the significant fact-gathering required to craft a reporting mechanism that is not unnecessarily burdensome for broadcast licensees, and the need to analyze what form of reporting would be likely to yield public interest benefits. In light of these issues, we stated that commencing such a proceeding with a Notice of Inquiry, rather than a Notice of Proposed Rulemaking, would generate a more constructive record and would provide improved opportunities for developing a balanced approach acceptable to a range of parties.⁴

Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,



Jerianne Timmerman
Senior Vice President and Senior Deputy General Counsel
Legal and Regulatory Affairs

cc: Joshua Cinelli

³ See Letter to Julius Genachowski, Chairman, Federal Communications Commission from Angela Campbell and Andrew Jay Schwartzman, counsel to the Benton Foundation, Campaign Legal Center, Common Cause, Free Press, Media Access Project, New America Foundation, and the Office of Communication, Inc. of the United Church of Christ (collectively the "Public Interest Public Airwaves Coalition") (filed Aug. 4, 2011 in MM Docket No. 00-168), at 3-4.

⁴ We noted that previous attempts to formulate a standardized program disclosure form resulted in a form that was unduly burdensome for licensees and that never became effective. See Comments of NAB on Proposed Information Collection Requirements, MM Docket No. 00-168, OMB Control No. 3060-0214 (May 12, 2008), at 13-14 (estimating, based on a one-week test by actual stations, that the FCC understated the information collection burdens associated with enhanced disclosure Form 355 by more than 1,000 percent).

